

**Read Memorial Hospital and Nancy Non. Case 3-CA-9821**

December 10, 1982

**DECISION AND ORDER**

By CHAIRMAN VAN DE WATER AND  
MEMBERS FANNING AND ZIMMERMAN

On December 28, 1981, Administrative Law Judge Robert T. Wallace issued the attached Decision in this proceeding. Thereafter, the General Counsel filed exceptions and a supporting brief, and Respondent filed a brief in opposition to the exceptions of the General Counsel.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings,<sup>1</sup> and conclusions of the Administrative Law Judge and to adopt his recommended Order, as modified herein.<sup>2</sup>

**ORDER**

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge, as modified below, and hereby orders that the Respondent, Read Memorial Hospital, Hancock, New York, its officers, agents, successors, and assigns, shall take the action set forth in the said recommended Order, as so modified:

1. Substitute the following for paragraph 1(d):

“(d) Soliciting grievances from employees or promising employees benefits to discourage their activity on behalf of any labor organization.”

2. Substitute the attached notice for that of the Administrative Law Judge.

<sup>1</sup> In the absence of exceptions, we adopt, *pro forma*, the Administrative Law Judge's finding that the April 9, 1980, statement of Supervisor Green was a violation of Sec. 8(a)(1) of the Act.

Inasmuch as Chairman Van de Water and Member Zimmerman affirm the Administrative Law Judge's conclusion that the Charging Party was discharged for successive acts of insubordination, they find it unnecessary to pass upon the Administrative Law Judge's finding, in dicta, that, if the Charging Party was discharged because she protested allegedly overbearing conduct of a staff physician, her discharge would be in violation of the Act.

Chairman Van de Water finds it unnecessary to rely on the citation of *PPG Industries, Inc., Lexington Plant, Fiber Glass Division*, 251 NLRB 1146 (1980), in finding interrogation violative of Sec. 8(a)(1).

<sup>2</sup> We shall modify the Administrative Law Judge's recommended Order and notice to conform to his Conclusions of Law. We shall include in our notice the narrow injunctive language omitted by the Administrative Law Judge.

IT IS FURTHER ORDERED that the complaint allegations not specifically found herein be, and they hereby are, dismissed.

MEMBER FANNING, dissenting in part:

Contrary to the Administrative Law Judge's conclusion, and my colleagues' affirmance of his Decision, I would find that Respondent violated Section 8(a)(1) of the Act when it discharged employee Nancy Non. Non's initial problem with hospital management took place on March 1, 1980,<sup>3</sup> when she and Dr. Richard Lebedovych had a disagreement over the doctor's request that Non fill out an "incident report" concerning the care of a patient. The disagreement between the two escalated and eventually involved members of the hospital's management and Non's coworkers. As early as March 6, Respondent was aware that its other nurses shared Non's concern about the administration of the hospital, and particularly about Dr. Lebedovych. At a meeting on that date, several nurses, including Non, voiced complaints to Warren Burgess, the hospital administrator. Burgess, at that time, informed the nurses that a file was being kept on the doctor.

The nurses' concern with the problems at the hospital and their support for Non in her continuing battle with the hospital administration are evidenced by the fact that several of the nurses gathered in Burgess' office on April 8 to "bear witness" to the scheduled suspension of Non. Although Non was not suspended at that time, a few nurses suggested that there might be a strike or sick out if Respondent suspended Non.

On April 9, a group of nurses, including Non, met after working hours to discuss Non's situation and also other areas of common concern regarding administration of the hospital. Approximately 20 of the nurses drafted a letter to Burgess outlining the concerns. The letter stated the group's intent to contact the New York State Nurses Association in order to improve communications between the nurses and the administration.

That Respondent was aware of, and concerned about, the nurses' continued support for Non is particularly evidenced by Nursing Supervisor Mary Ann Eggleton's statement to Non on April 14. After Eggleton had unsuccessfully attempted to secure a replacement for an ill nurse, she accused Non of having "fixed it" so that nobody would work for her. Eggleton also remarked to another nurse at that time that "Non and others had conspired and no one else would work."<sup>4</sup> The next

<sup>3</sup> All dates are in 1980 unless otherwise specified.

<sup>4</sup> Thus, Eggleton, on April 14, determined that Non had "conspired" with others so that Eggleton could not maintain an adequate staff com-

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day, April 15, Burgess and Eggleton decided to discharge Non. In fact, Non's termination letter, signed by both Burgess and Eggleton, recited that the "continuing problem" was directly affecting all working operations of the entire hospital. On cross-examination, Eggleton admitted that a factor in her decision to discharge Non was her perception that other nurses had sided with Non, making Eggleton's job more difficult. Unlike my colleagues, I cannot agree with the Administrative Law Judge's conclusion that such a perception on Eggleton's part is "inherent in any situation involving delayed response to insubordination to supervisors or other employee misconduct" and that such a concession does not render Non's discharge unlawful.

This scenario presents, in my opinion, a classic case of protected concerted activity in that Non, along with the other nurses, became concerned about certain working conditions at the hospital, including working under Dr. Lebedovych. Non enlisted the support of other employees to protest working conditions at the hospital. Upon fully realizing the widespread support for Non's activities, Respondent promptly discharged her. The General Counsel has amply demonstrated a *prima facie* showing that Non's protected conduct was a "motivating factor"<sup>5</sup> in Respondent's decision to discharge her. On the other hand, the evidence does not support the Administrative Law Judge's conclusion that Non was terminated "for successive acts of insubordination arising from her determination to defend herself against possible charges of nonfeasance in connection with a critically ill patient in her care on March 1." The Administrative Law Judge specifically noted three factors that led, in his opinion, to Non's discharge.<sup>6</sup> However, Respondent tolerated these past transgressions<sup>7</sup> and only decided to terminate Non when she later enlisted, and it became aware of, the support of the other nurses.

I would find that it was the galvanized support of other nurses for Non at Respondent's facility that was a motivating factor in, and indeed precipitated, Respondent's decision to discharge Non.

plement. There is no indication in the record, nor does Respondent argue, that Non engaged in any form of conspiracy. However, it is obvious that the events of April 14 led Respondent to believe that other employees fully and firmly supported Non in her activities.

<sup>5</sup> *Wright Line, a Division of Wright Line, Inc.*, 251 NLRB 1083, 1089 (1980).

<sup>6</sup> The three factors cited were Non's initial refusal to fill out an incident report, the letter she wrote to Dr. Lebedovych criticizing his behavior, and Non's remark to Eggleton concerning "thirty pieces of silver."

<sup>7</sup> A warning notice was issued to Non prior to her filing of the report. The notice stated that Non would be dismissed unless the situation was rectified by an apology to the doctor and the filing of a proper incident report. Non subsequently filed the report on April 1. On April 11, there was an attempted reconciliation between Non and Dr. Lebedovych. Although Non appeared at Eggleton's office on that date and agreed to meet with Dr. Lebedovych, the doctor declined to meet with her.

Eggleton admitted as much when she testified that the allegiance of other nurses to Non's cause played a role in her decision to discharge. It was this support, intervening in time between Non's initial failure to file the report and her eventual discharge, that Respondent relied on in arriving at its decision to discharge Non. Respondent has not demonstrated that the same decision to discharge Non would have taken place in the absence of the support for Non. Thus, I would find that Respondent violated Section 8(a)(1) of the Act by its discharge of Nancy Non. I otherwise agree with my colleagues in the majority.

## APPENDIX

### NOTICE TO EMPLOYEES POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

WE WILL NOT attempt to punish or discriminate against employees because they file charges with the Board or engage in protected concerted activities.

WE WILL NOT threaten employees with loss of benefits or closure of the hospital because of their activities on behalf of any labor organization.

WE WILL NOT interrogate employees concerning their interest in or activity on behalf of any labor organization.

WE WILL NOT solicit grievances from employees or promise employees benefits to discourage their activity on behalf of any labor organization.

WE WILL NOT promulgate and maintain any overly broad no-solicitation rule.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of the rights guaranteed them in Section 7 of the National Labor Relations Act, as amended.

WE WILL withdraw our request to the New York State Education Department for an inquiry into the professional conduct of nurse Nancy Non.

WE WILL rescind and remove from our bulletin boards and code of regulations the no-solicitation rule found by the Board to be overly broad.

## READ MEMORIAL HOSPITAL

## DECISION

## STATEMENT OF THE CASE

ROBERT T. WALLACE, Administrative Law Judge: Upon charges filed by Nancy Non, an individual, against Read Memorial Hospital (Respondent), a complaint was issued on July 21, 1980. The latter was amended on January 26 and February 12, 1981. The primary issues are whether Respondent discriminatorily discharged and otherwise discriminated against Nancy Non in violation of Section 8(a)(1), (3), and (4) of the National Labor Relations Act and whether it interfered with protected concerted activities of other employees in violation of Section 8(a)(1) of the Act. The case was heard before me at Hancock, New York, on March 11-12 and April 27, 1981.

Upon the entire record, including my observation of the demeanor of the witnesses, and after due consideration of the briefs filed by the General Counsel and Respondent, I make the following:

## FINDINGS OF FACT

## I. JURISDICTION

Respondent, a nonprofit corporation organized under the laws of the State of New York, operates a hospital in Hancock. During the pertinent period herein, it derived gross revenues in excess of \$1 million and purchased materials and supplies valued in excess of \$50,000 which were shipped directly to the hospital from points outside the State of New York. It admits, and I find, that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act. I also find, pursuant to a stipulation, that the New York State Nurses Association (NYSNA) has a division which is a labor organization within the meaning of Section 2(5) of the Act.

## II. ALLEGED UNFAIR LABOR PRACTICES

A. *Events of March 1*

On March 1, 1980, Read Hospital was filled to capacity with 31 inpatients, 10 or 12 of whom were in critical condition. One of the latter, "Mrs. E," was a patient of Dr. Lebedovych. She was being supplied intravenously with fluids and her output of urine was being monitored for quality and sugar content; and a delicate balance (input versus output) had to be maintained to assure patient stability and to avert renal shutdown and other complications.

Dr. Lebedovych arrived at the hospital at or about 7 a.m. and thereupon noted that during the preceding 24 hours Mrs. E. had marginal urine output and had received substantially less fluid input than prescribed. He issued remedial orders which, among other things, included a notation directing nurses on subsequent shifts to monitor "urine output hourly! [And notify] MD if below 30cc's/hr.!!" He then requested the nurse (Pat Green) in charge of the night (11 p.m.-7 a.m.) shift to prepare and submit to the administration an insurer's "Incident Report" concerning the deficiency in fluid input. She complied.

During the day shift (7 a.m.-3 p.m.) the patient's output was recorded as below 30cc's at 8:30 a.m. (20cc's), 10:30 a.m. (25cc's), 12:30 p.m. (25cc's), and 1:30 p.m. (25cc's). With one exception, Dr. Lebedovych was informed promptly, and at 11:30 a.m. he prescribed additional albumin. The exception related to the 1:30 p.m. reading which was not communicated to the doctor until 2 p.m. because Nurse Zawatsky, despite diligent efforts, had been unable to locate him. That delay apparently evoked no comment from the doctor, but earlier in the shift he "yelled" at Nurse Zawatsky about perceived input/output derelictions on previous days. She had never had a doctor talk to her in that tone of voice before.

Nancy Non, the Charging Party, was due to work on the evening shift (3-11 p.m.) as acting charge nurse. She had been employed at the hospital for 20 years, and, although she had been charge nurse between 1966-70, she now worked on a part-time basis. In performance evaluations between 1971 and 1978 she received consistent high ratings, although in one evaluation (dated February 1978) a propensity to antagonize some doctors was noted subject to a comment that this was "usually well founded to stimulate needed changes." On those occasions when she served as acting charge nurse, she did not receive extra pay or other benefits and she continued to punch in and out on the timeclock. She was never told that she had authority to hire, discipline, or reward other personnel or to recommend such action, nor did she do any of those things. She had not been asked to evaluate any employee since 1977, and did not. Her attendance at regularly scheduled and special meetings of supervisory personnel was required only occasionally. While she gave directions to other employees, those directions appear always to have been incidental to her treatment of patients; and, indeed, she had been told to contact the head nurse or administrator, at their residences if necessary, in regard to any problems, personnel or otherwise, arising on her shift. In those circumstances, I find that, at all times pertinent herein, Nurse Non was an "employee" rather than a "supervisor" as those terms are defined in the Act. See *Mount Airy Foundation d/b/a Mount Airy Psychiatric Center*, 253 NLRB 1003, 1008 (1981).

Nurse Non arrived at the hospital at or about 2:50 p.m., and promptly familiarized herself with the patient situation, including Dr. Lebedovych's instructions. She anticipated a busy evening. Other than Nurse Juba who would be totally occupied in the emergency room, she was the only RN on duty. Available to assist her were a licensed practical nurse (LPN), a ward clerk, and two nurses aides. A third nurses aide was absent. Departing Nurse Zawatsky advised Non of the doctor's concern in regard to Mrs. E.<sup>1</sup>

<sup>1</sup> Among other things, Non testified that Nurse Zawatsky appeared to have been crying and told her that Dr. Lebedovych had been behaving "like a maniac . . . screaming and shouting all day . . . about [Mrs. E's] intake and output." However, Zawatsky's description of her contacts with the doctor that day are far more restrained, and I conclude that the language attributed to her represents hyperbole on the part of Non. I also view in the same way Nurse Juba's testimony that on arriving on duty she could "sense tension in the air" and that the doctor had been "on a

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At 3:30 p.m. Nurse Non noted that Mrs. E's hourly urine output was 15cc's but she was not alarmed, figuring that a nurses aide had used some of the urine to make a Jocelyn Scale test for sugar and acetone content. After an initial unsuccessful attempt to locate the aides,<sup>2</sup> she proceeded to attend another critically ill patient. At or about 4 p.m. she met an aide (Goff) who assured her that she had indeed taken more than 15cc's for the test because a lot had spilled on the floor when she removed the cap.

At 4:30 p.m. Nurse Non again measured Mrs. E's total hourly urine output and found 15cc's. She then called Lebedovych's office, the dining room, the doctors lounge, and the emergency room, without success.<sup>3</sup> At or about 5 p.m. she found the doctor near the nurses station and advised him of the 4:30 p.m. reading. He asked why he was not notified at that time. Non responded: "I tried to, Doctor. I tried to get you at 3:30 too, because there was only 15cc's then . . . but then I found out we took it out for the fractional urine. I haven't been able to find you either time."<sup>4</sup> Assertedly, he responded by repeatedly calling her an "idiot" and "incompetent"; and he described the nursing care at the hospital as "terrible," adding "you're all stupid . . . a bunch of fools"—all the while raising his voice louder and louder until he was screaming.<sup>5</sup> This went on for "several moments" when at Non's suggestion they went into a nearby nurses lounge where she told him that instead of shouting he should write orders on the patient, that she was not afraid of him and would not cry like the others, and that this was not a "communist country where we have to take things like this from people like you." He responded by saying: "How dare you talk to me this way. I want an Incident Report on this entire incident."<sup>6</sup> He then left the room and examined Mrs. E, noting that her urine output was increasing. However, he issued no new orders at that time.<sup>7</sup>

rampage all day . . . had the day girls upset . . . [and] Pat Green and Marie Zawatsky had been crying." Assertedly she obtained that information from a nurse on the morning shift (Ken Mason), but the latter's testimony is devoid of any characterization of Dr. Lebedovych's conduct.

<sup>2</sup> Nurse Non testified that she also tried to reach Dr. Lebedovych shortly after 3:30 p.m. by phoning his office. However, she did not mention that call in two prior written accounts—see G.C. Exh. 17 (Incident Report 41928) and G.C. Exh. 18 (letter to Edward Dix)—and I do not credit her testimony in this regard.

<sup>3</sup> Nurse Ken Mason stated that, upon receiving Nurse Non's call in the emergency room, he used the intercom to page Dr. Lebedovych throughout the hospital.

<sup>4</sup> According to Dr. Lebedovych, Nurse Non did not mention the spillage incident. Instead, she responded to his question as to why he was not notified at 3:30 p.m. by stating, "Well, I wanted to see what would happen over the next hour." For purposes of this case, I accept Non's version.

<sup>5</sup> Dr. Lebedovych admits being angry and raising his voice higher than normal, but not to a loud pitch. On the other hand, an LPN (Porteous) and the ward clerk (Ostrander) were nearby and heard him "yelling" at Non. Both never before had heard a doctor use that tone of voice.

<sup>6</sup> Dr. Lebedovych's testimony is in general agreement with this account of the closed door conversation. Nurse Non, however, claims that his request for the IR was preceded by the comment "I'll get even." I view that phrase as highly self-serving; and, in light of my observation of both witnesses and my view of their testimony as a whole, I decline to credit Non in that regard.

<sup>7</sup> Prior to going off duty at 9:30 p.m., Dr. Lebedovych ordered a sharp reduction in the patient's IV fluid input and also wrote: "No need to notify me with urinary output unless significantly low (consistently less

Shortly thereafter Dr. Lebedovych was sitting at the nurses station. Nurse Non handed him a blank IR and told him to fill it out himself, adding that she had no time for his foolishness. The doctor did not respond. Instead he went to the administrator's (Warren Burgess') office and promptly returned with that individual. After taking Non aside and listening to her account, Burgess urged her to make out the report. Non declined, claiming that she had not done anything wrong and consequently had nothing to report.

#### B. Non's Discharge

Nurse Non had the next day off. On reporting for the evening shift on March 3, she was approached by Mary Ann Eggleton. The latter had been appointed acting director of nurses that day, after serving as a nurse at the hospital for approximately 7 months. She told Non that she had been briefed by Dr. Lebedovych and others concerning the events of March 1, and that the doctor was upset and wanted an incident report. A conversation ensued during which Non told her, among other things, not to bother about the matter because he was like all the other doctors with his type of personality and would not stay long. Finally, and in response to Eggleton's urging, Non said she would think about filing a report.<sup>8</sup>

On March 6, Burgess conducted a meeting attended by the nurses in which he announced that Eggleton had been appointed acting director of nursing. Also in this meeting several nurses, including Nurse Non, brought up problems that they had been having with Dr. Lebedovych. Burgess replied that a file was being kept on the doctor, that there had been other complaints, and that the nurses should put their complaints in writing for inclusion in his file.

During the next 2 weeks Eggleton asked Nurse Non two or three times for the IR without result. On Friday, March 28, she again approached Non and the latter then agreed to submit the report early on Monday morning.

Over the weekend Nurse Non prepared three documents. The first was an Incident Report (IR 41928) on patient E which she completed on the evening of March 28. Therein she described the incident as follows: "Stable 2nd day post-op pt. was supposed to have Hourly urine collected. If urine was below 30cc's the doctor was to be notified. . . . The 3:30 p.m. urine was 15cc's but half had been removed for a fractional urine. The 4:30 p.m.

than 20cc's an hour)." At the hearing, Nurse Non expressed doubt as to the logic of decreasing the fluid input (even though she was aware that albumin—a kidney stimulator—had been administered earlier that day) because, in her opinion, the patient's urine output as of 9:30 p.m. "had not increased that significantly . . . [and the doctor] should have left her on the urinometer at least through the night on the same orders." However, on being reminded during cross-examination that Mrs. E's hourly urine output was 35cc's at 5:30 p.m., 50cc's at 6:30 p.m., 70cc's at 7:30 p.m., and 50cc's each at 8:30 and 9:30 p.m., she conceded that those readings represented a significant increase.

<sup>8</sup> I find incredible Nurse Non's claim that during the conversation Eggleton (1) called Dr. Lebedovych a "perv," (2) promised she would require Nurse Zawatsky and other personnel named by Non to submit IRs for not promptly notifying the doctor of low urine outputs of patient E occurring on the two shifts immediately preceding the evening shift on March 1, and (3) agreed to accept an IR from Non limited solely to an account of Lebedovych's conduct and personality traits.

urine was 15cc's. The doctor was not notified until 5 p.m. because he left word he would be in his office & was found 30 min. later in administrator's office. The notification delay was due to the same nurse carrying the same physician's . . . orders on another more seriously ill patient. . . . The priority was explained resulting in incident #41929."

The second document (IR 41929) named Dr. Lebedovych as the subject and contains the following description of the incident: "The above physician was verbally abusive & shouting derogatory remarks about the entire hospital staff while standing in the hallway. Stated among other things 'You are all stupid incompetent people.' He seemed to lose control of himself completely and after several moments was coaxed into a sound proofed area where an attempt was made to relate to the problem without any success."

The third item was a letter to Dr. Lebedovych, the text of which is as follows:

3/30/80

Dear Sir:

In response to your request for an incident report on a non-incident, March 1, 1980 concerning Mrs. [E], Room 17A. The only incident I can recall is the obnoxious scene you made in the vicinity of the nurses' station, screaming and shouting in the most irrational and immature manner about a matter that supposedly happened on the shifts previous to mine.

It is quite obvious the only reason you want the above-mentioned report is due to the fact that I refused to be intimidated by your ridiculous behavior and responded quite well in telling you I had no fear of you despite your maniacal display. You seem to think (out of sheer frustration) that you can cause me at least 45 minutes of grief by having an incident report made out on absolutely nothing.

The H.U.M. [IR] reports should not be abused like this. They are necessary reports for recording possible malpractice suits. They are not for spite work and harassment of the nursing staff. However, I filled one out on your behavior that particular night and possibly do others on some other incidents. According to the Personnel Policies adopted in 1977 and recently revised: "Any violent verbal exchange in the presence of patients is grounds for immediate dismissal."

If you wish to pursue this matter any further I am going to request a board hearing. You have wasted enough of my valuable time.

Most of the staff is ill at ease working with you and that is sad. My objective view of the situation is that you are a lonely, depressed individual and would benefit from staff companionship. However, you continue to alienate everyone during your periods of insecurity and acute anxiety.

Certainly, if you are able to use behavior modification to lose weight and stop smoking it can be used for emotional control, can it not?

As for our errors in carrying out every minute detail of your orders . . . what can I say? We are

human not Divine. Learn to be more tolerant of other's foibles. Military discipline is great for the armed-forces, but we are a group of house-wives and nurses with many other things on our minds besides our jobs. Occasionally we become blank over perfectly obvious things. Don't forget we are working two full-time jobs while you have only one.

Our organized confusion is similar to a M.A.S.H. unit . . . a totally dedicated group . . . but a little wacky.

In closing. We will accept you as you are, if you are willing to accept us.

After discussion the contents of the letter with several nursing personnel, Non made copies; and on Sunday, March 30, she put one copy in Dr. Lebedovych's box, and put another, together with IR 41929, in an envelope which she slipped under the door of Eggleton's office.

Nurse Non had Monday off. On reporting to work Tuesday, April 1, she was told to report to Eggleton. On doing so, the latter gave her a written warning notice in which Non was advised that the letter to Dr. Lebedovych constituted gross misconduct, that her refusal to file the requested IR was in contravention of a supervisor's order, and that both actions were cause for immediate dismissal. Further, the note informed Nurse Non that she would be dismissed unless the situation were rectified by an apology to the doctor and the filing of a proper IR. At Non's request Hospital Administrator Burgess was called in. He supported Eggleton.<sup>9</sup>

Non signed the warning notice and left. She returned a short time later and gave to Eggleton the previously prepared IR 41928. She also asked for and received a copy of the warning notice, and responded to Eggleton's inquiry as to why she wanted the copy by stating, "You'll find out. I think you've just opened a can of worms."

On April 2, Non phoned Edward Dix, president of the board of directors of the hospital. After hearing her version of the situation, he told her to follow the grievance procedure.<sup>10</sup> She assured him that she had done so up to

<sup>9</sup> Nurse Non quotes Burgess as saying ". . . in any altercation between a physician and a nurse, the physician's position will always be upheld, not the nurse's" and "We have other things in your file that could be used against you . . . [for example] an incident with another doctor." Here again I decline to credit Non. The alleged quotes are anomalous to the subject of the meeting on April 1. The warning notice did not purport to assess blame for events occurring on March 1. Rather, it was directed to the facts that Non had not filed an IR concerning the patient and had sent the letter to Dr. Lebedovych, both of which were admitted by Non.

<sup>10</sup> The grievance procedure contained four steps, as follows:

Step 1. Any employee having a problem shall first talk the matter over with his immediate supervisor. If the supervisor cannot help and a settlement not reached within five (5) days, the problem should be carried to Step 2.

Step 2. The problem shall be reduced to writing and submitted to the department head for review. The department head shall decide upon a course of action and return it in written form within seven (7) days after receipt. If your immediate supervisor and department head are the same person, disregard Step 2, and proceed to Step 3.

Step 3. If the problem is not satisfactorily resolved it shall be submitted in writing to the administrator within five (5) days of receipt of the department head's reply or unsatisfactory resolution by the department head and/or supervisor. The administrator shall submit a

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that point, whereupon he told her to write him a letter and he would bring the matter up at a meeting of the board scheduled for the next day. Non proceeded to write a lengthy letter to Dix (G. C. Exh. 18); and, after attaching a copy of her letter to Dr. Lebedovych and the warning notice, she delivered the package to his home that evening. The opening paragraph of that letter reads as follows: "I wish to bring a serious matter to the board's attention regarding the hospital, Dr. Lebedovych and me. I have carried out steps one, two, and three of the grievance procedure and after days of frequent meetings and discussion I have decided to seek a board resolution."<sup>11</sup> There follows a recitation of Non's version of events on and after March 1. She then goes on to state, among other things, that she had a constitutional right to express her feelings in the letter to the doctor, that Burgess and Eggleton had retaliated against her by threats, including the warning notice, that her friends on the evening shift were being harassed for standing by her during "this absurd soap-opera," and that she had no intention of apologizing to Dr. Lebedovych.

On April 4, Non asked a board member if Dix had mentioned her problem or read her letter at the meeting of the board. On being told that he had not, Non, assertedly at the suggestion of the member, proceeded to mimeograph more copies of the letters to Dix and Lebedovych, mailed them to each board member, and made copies available to other hospital personnel. She then called Dix and asked him if he had read the letter at the meeting. According to Non, he evaded the question and kept saying, "They can't fire you for something as stupid as that."

By April 7, Burgess had become aware of the letter to Dix. Not having talked to Dix, and outraged by what he perceived to be a gross violation of the grievance procedure by Non, he met with Eggleton and both agreed that disciplinary action should be taken against Non when she returned to work on the next day. Eggleton then attempted to obtain a replacement for Non on the April 8 evening shift. After several turndowns,<sup>12</sup> Nurse Teuber agreed to work an extra shift that day.

written decision within seven (7) days after receipt of the written complaint.

Step 4. If the employee is dissatisfied with the administrator's decision he may then submit the problem in writing to the Secretary of the Board of Directors within seven (7) days after receipt of the administrator's decision. The decision by the Board of Directors is final.

<sup>11</sup> I infer from this paragraph that Non was familiar with the grievance procedure, and felt it important to assure Dix that she had complied therewith as a basis for writing to him pursuant to step 4. Accordingly, I discredit her claim that in the phone conversation on April 2 Dix had waived the "in writing" requirements of steps 2 and 3; and I conclude, as found above, that she induced him to believe she had complied with those steps.

<sup>12</sup> Nurse Ken Mason stated that he was approached by Eggleton in the hospital parking lot on the evening of April 7. He asked why she wanted him to work the extra shift and Eggleton replied that Non was to be "let go." A heated conversation ensued and Burgess soon arrived on the scene. Mason told both that it was rash to have made that decision without further investigating everything that was involved, that people's morale was very low because of the problems between Nancy and Dr. Lebedovych, and that there might be a mass resignation of nurses. Burgess responded saying, "Ken Mason, you've got the wisdom of Solomon. I think I'll straighten the whole thing out."

When Nurse Non arrived at the hospital on April 8, she was met by Eggleton who invited her into the office. Burgess was there and shortly thereafter 8 or 9 nurses, including Mason, arrived and were given permission to attend. They wanted to support Non and "bear witness." Burgess informed the group that a decision had been made to suspend Non for 2 weeks for not having observed the proper grievance procedures before writing to Dix. Several nurses expressed the view that it was "pretty rotten, and unethical" of Eggleton to have told people earlier in the day that Non was to be disciplined without first having told her. Some suggested that there might be a strike or sick out. Mason, however, argued that there was no violation because Dix had told Non to write the letter. Burgess, unaware of the circumstance, responded: "That changes everthing." He then assured the group that no action would be taken, adding, "If . . . [Non] feels she has a grievance, she should go back to Step 1 of the grievance procedure."<sup>13</sup> But before ending the meeting he designated Mason as liaison officer between nurses and the administration in regard to matters affecting morale, including communication of grievances.

During the morning of April 9, Non called a "Sister Allen" in Albany, New York, and, after giving her version of events and expressing concern about the warning notice and possible consequences of her determination not to apologize to Dr. Lebedovych, asked for help in dealing with the hospital. Sister Allen headed the Nurse Practice Division of the NYSNA and in the past had helped to resolve problems at the hospital. She promised to come again and assist in any way she could.

Later that day Mason went to Burgess' office and asked him what steps Non should take so as to comply with the grievance procedures. After outlining the steps, Mason understood Burgess to say that "its just going to get as far as me . . . and then the matter will be dropped," but after leaving the office Mason looked at his notes of the meeting and, finding them unclear, he threw them away. He returned and asked Burgess to write down what he had just said. Burgess obliged by signing a note which reads as follows: "Re: Nancy Non Matter. Because Mr. Dix asked her to write to the Board there will be no discipline action taken. This was the only area that we were going to take action on." Mason accepted the note and gave it to Non. Burgess interpreted the note simply as a restatement of the result of the meeting on April 8, to wit: that no action would be taken regarding Non's action in writing directly to Dix. I agree and also conclude that it reflects the substances of his conversation with Mason on April 9.

According to Non, Burgess asked to talk with her in private at or about 5 p.m. Assertedly he inquired as to what she would say if, in return for stopping all her activities, "we would retract the warning letter, go back to square one, and settle all our problems." Non declined,

<sup>13</sup> Non stated that during the meeting Burgess accused her of making charting errors on patient E and attempted to "blackmail" her by threatening to use the chart against her if she fought the suspension. That claim was not corroborated by the testimony of any other participant at the meeting, including Nurses Mason and Juba, and I decline to credit it.

and Burgess became "very angry" when told that Sister Allen was coming.

That night Non and a group of nurses (including some supervisors), LPNs, and nurses aides met in a private home. They discussed Non's situation and other common concerns in regard to administration of the hospital. They concluded that they needed professional help before attempting further communications with the administration, and they agreed to seek the advice and counsel of NYSNA through Sister Allen when she arrived.<sup>14</sup> In addition, they agreed that their position should be stated in a letter to the administration.<sup>15</sup> A draft was thereafter prepared by Mason. It was signed by 20 nursing personnel and delivered to Burgess' office on April 15. However, on April 10, Mason orally informed Burgess of the meeting, the contents of the letter, and that the letter was in lieu of a list of grievances.

On Friday morning, April 11, Burgess and Eggleton decided to try to resolve the Lebedovych/Non matter by bringing them together. So when Nurse Non arrived for the evening shift Eggleton met her and asked if she would accompany her to the nursing office. As they walked down the hall Non, anticipating some adverse action, asked Eggleton: "Did you receive your 30 pieces of silver yet?" To Eggleton's inquiry as to what she meant, Non replied, "Oh, you know what I mean," and continued past Eggleton into the office. Burgess was there. The meeting was brief and unproductive. After Nurse Non agreed to meet with Dr. Lebedovych, Burgess phoned the doctor. However, Lebedovych declined to attend, stating that he would meet with Non only after he received an apology.<sup>16</sup> Later in the day Eggleton prepared a second warning notice citing Non for showing disrespect in making the comment regarding "30 pieces of silver." Sometime after 11 o'clock that evening Non claims to have received a phone call from Dix at her home. Assertedly, he told her he had not seen Burgess for a long time and invited her to bring him up to date on events. She obliged and went on to tell him that the nurses wanted to unionize and strike and that she was thinking of suing the hospital for harassment, adding that "it would be nasty because of many of the bad things that would come out about the hospital." According to Non, he responded by assuring her that nothing would happen and that she would never be fired.<sup>17</sup>

Nurse Non had the weekend off. On returning to work on the afternoon of April 14 she was given the second

warning notice by Eggleton. Non declined to sign the notice or discuss the matter stating that she did not and could not trust Eggleton. Later that day a nurse scheduled for work on the night shift called in sick. A nurses aide took the message and relayed it to Non; and, following the latter's instructions, the aide made numerous calls in an unsuccessful effort to obtain a replacement. Non then told the aide to advise Eggleton of the problem. Eggleton proceeded without success to get a replacement;<sup>18</sup> and at or about 8:30 p.m. she called Non and blamed her for the situation stating: "Now you've fixed it so nobody will come in. Nobody will work for me now after what you've said to them." Non replied that she did not understand what Eggleton was talking about. Eggleton called Dix who in turn called Burgess. The latter then called Non and asked what was going on. Non replied that she did not know "but it seems I'm being blamed for everything." At 11 p.m., having no replacement, Non continued to work through the night shift.

On April 15, Eggleton and Burgess decided to discharge Nurse Non. Both signed a termination letter which, after citing the two warning letters and her "continued insubordination" (including the "I can't trust you" remark on April 14), goes on to state: "This continuing problem is directly affecting the quality of patient care, directly and indirectly involving the entire Nursing Staff, other departments, consequently involving all working operations of the entire hospital." The letter was given to Non on April 16. On cross-examination Eggleton, then no longer employed by the hospital, conceded that one factor in the decision was her perception that nurses had taken Non's side and were making it difficult for her to function as director of nursing; i.e., to obtain volunteers for extra work. She also conceded, as did Burgess, that Non's action in writing to each board member and members of the medical staff also played a part in the decision to terminate Non.

Nurse Non appealed her discharge through the various steps of the grievance procedures<sup>19</sup> but, as of the close of the hearing in this proceeding, no final action had been taken by the board of directors. She also filed claims with unemployment compensation commissions in New York and Pennsylvania. Those claims were ultimately denied after hearing. Her original charge in this proceeding was filed on June 4.

On June 20, Burgess sent a letter to the New York State Education Department, Division of Professional Conduct, asking for a determination, based upon an enclosed file on Nurse Non, as to whether there were grounds for revoking her license. The file contained numerous documents (i.e., Non's letters to Dr. Lebedovych and Dix, the warning notices, etc.), all of which were received in evidence in this proceeding. Neither the letter nor the attachments contained any medical records or

<sup>14</sup> During the discussion of NYSNA, a nurse supervisor (Pat Green) got up and said: "Do you know what this means? This means a union will be coming to Hancock and you know what's going to happen then. . . . There'll go the hospital. You know my opinion now and I really don't have anything more to say." She then left the meeting.

<sup>15</sup> Although Mason, a loquacious witness, described what transpired at the meeting in some detail, including Non's comments, he made no mention of Non's alleged exchange with Burgess earlier in the evening. Neither did nurse witnesses Judith Teuber and Barbara Juba, who also were participants at the meeting. I find this strange; and for that reason, as well as my overall assessment of Non's credibility, I conclude that the exchange probably did not occur.

<sup>16</sup> I find improbable Non's claim that the meeting ended with Burgess shaking her hand and saying: "I'm glad the feud is over."

<sup>17</sup> Assuming this conversation took place, I think it more likely that the call was initiated by Non. Also, I find improbable the response attributed to Dix.

<sup>18</sup> Nurse O'Brien was called by Eggleton and told that "Non and others had conspired and no one else would work" and that she (O'Brien) was her last possible replacement.

<sup>19</sup> In a letter affirming Non's discharge dated May 19, Burgess included as an additional factor a circumstance which belatedly had come to his attention: that on April 2 she had misled Dix in assuring him that she had complied with prior steps under the grievance procedure.



reference to possible charting errors. While Burgess averred that his decision to send the letter was motivated by his concern about possible violations of professional standards by Non, he admits that his awareness of expenses of the hospital in defending against her unemployment compensation claims and charges filed with the Board also played a role in his decision.

### C. Other Events

On April 18, Sister Allen arrived at the hospital and met successively with the administrator and nursing staff. In response to questions from the latter, she explained that as a representative of the Nurse Practice Division of NYSNA she was not there as an organizer. Rather, she was a neutral interested only in standards of professional practice and health care service. She pointed out that the NYSNA had an Economic and General Welfare Union Division which could be contacted in regard to union matters. While the visit was in progress, new personnel rules and regulations were posted. These included two rules which prohibited, without written permission of the administrator:

- Soliciting or collecting contributions for any purpose, other than hospital connected matters; on hospital time. . . .
- Organization activities for any group or groups on hospital time and premises. . . .

On April 22, Burgess invited Nurses Mason, Teuber, and Green to meet with him and Eggleton for the purpose of improving staff communications with the administration. After stating that Sister Allen's visit was a positive step in that direction, Burgess suggested that the group call itself an "Ad Hoc" committee and meet at frequent intervals thereby to improve communications and help resolve problems. Subsequent meetings were held on April 29 and May 13. A wide variety of topics were discussed, including staffing inadequacies, ways to achieve cost savings, possible meetings between staff and doctors to improve communications, and opportunities for continuing education. It does not appear that any individual grievance was considered. After the meeting on April 29, Burgess approached Mason and Teuber and asked them if there was any truth to a rumor that the nurses were considering organizing and forming a union. They responded that they had not heard the rumor but would "let him know if anything comes up in the future."

On May 28, Eggleton met with a group of nurses and LPNs and encouraged them to voice any grievances they might harbor. Dr. Lebedovych was the main subject of complaints. Eggleton proposed a general meeting with the doctor on June 6 to acquaint him with the concerns expressed. Her effort failed, however, when Lebedovych later insisted, as a prerequisite to such a meeting, that any complaints by nursing staff be signed and submitted to him in advance.

On June 5, Burgess approached Nurse Mason and once more asked about a rumor of union activities at the hospital. Mason told him it was true and that representatives of the union division of NYSNA were coming to

speak to the employees. Burgess then asked Mason to bring him a list of grievances from the nursing staff before the union representatives arrived, adding that "we'll see if we can't make things right." Mason agreed to bring the proposal to the attention of the nurses but declined to predict what they would decide. Within a day or two, Mason was invited to see Board President Dix. The latter told Mason to advise the nurses that he (Dix) was aware that there were problems between them and the administration, and that they should feel free to attend a board meeting as a group and talk directly to the board. Again, Mason responded by stating that he would relay the message.

A petition for a representation election was filed by NYSNA on behalf of employees at the hospital on December 5 and was docketed as Case 3-RC-8008. On December 18, the new director of nursing (Robert Yarnes) gave a Christmas party for hospital personnel at a local inn. During that party, he approached Nurse Marian Price and said: "everything is kaput." When she asked him what he meant, Yarnes replied: "All the benefits I've been working for have stopped until this union thing is settled."

## III. ANALYSIS AND CONCLUSIONS

### A. Non's Discharge

It is apparent from the record that Respondent had a personnel problem arising from insensitivity of a doctor in his communications with nurses. Concerns in that regard have a direct impact on employees' job interests and ability to perform, and are a legitimate subject for concerted activity within the protection of the Act. *Dreis & Krump Manufacturing, Inc.*, 221 NLRB 309 (1975); *Pacific Coast International Meat Co.*, 248 NLRB 1376 (1980). Also, individual action is protected concerted activity if the employee is complaining about a matter of common concern to other employees in the same circumstances, *Allen M. Campbell Company General Contractors, Inc.*, 245 NLRB 1002, 1006 (1979); and this is so irrespective of whether the employee was overtly designated by other employees to act on their behalf or whether the employee informed other employees of the undertaking as long as there is evidence that fellow employees share the acting employee's concern and interest in common complaints. *Diagnostic Center Hospital Corp. of Texas*, 228 NLRB 1215, 1217 (1977), citing *Alleluia Cushion Co., Inc.*, 221 NLRB 999 (1975). Accordingly, if the Charging Party herein (Nurse Non) was discharged because she protested overbearing conduct by the doctor her discharge would be in violation of the Act.

But I do not find that to be the case here. The hospital appears at all times to have been receptive to employee complaints concerning the doctor; and in that connection I note that, as early as March 6, the administrator encouraged nurses, including Non, to submit their complaints so as to provide a basis for remedial action.

Instead, I conclude that Nurse Non was discharged for successive acts of insubordination arising from her determination to defend herself against possible charges of



nonfeasance in connection with a critically ill patient in her care on March 1.

Specifically, I am persuaded that she was discharged for:

(1) Refusing over a period of 4 weeks to comply with successive requests by the doctor, hospital administrator, and head nurse for an Incident Report relative to the hourly monitoring of the patient's urine output. Contrary to Nurse Non's claim, the request was not a form of harassment. Rather, it appears to have been prompted solely by the doctor's concern that his instructions had not been carried out. In effect, he was giving her an opportunity to explain and perhaps exculpate herself from responsibility for any dereliction. Indeed, in a similar situation involving the same patient occurring earlier that day, his request for an IR from another nurse was met with prompt compliance.

(2) Purportedly responding to the requests for the IR by forwarding to the doctor (and later circulating to the hospital board of directors and staff) a "Dear Sir" letter the content of which was both evasive and abusive. In that letter, dated March 30 and set forth in its entirety above, Nurse Non reiterates her claim that the IR was requested out of spite and for purposes of harassment. Yet at the time she deposited the letter she had already prepared an IR which dealt with the patient's care factually and without emotion—an IR which she submitted on April 1, but only in response to a warning letter. In these circumstances there can be no presumption that references in the letter to the doctor's behavior ("obnoxious" and "maniacal") and personality ("a lonely depressed individual") constitute protected concerted activity. The letter was written to further Nurse Non's purely personal objective to direct attention away from her failure to comply with legitimate and repeated requests for the IR.

(3) Disparaging remarks to her head nurse; i.e., "Did you receive your 30 pieces of silver yet," and "I can't trust you."

An additional factor in the discharge was a perception on the part of the head nurse that other members of the nursing staff were siding with Nurse Non and her apprehension that that circumstance might operate to lessen her ability adequately to perform her functions as supervisor with consequent adverse effect upon patient care. But those concerns are inherent in any situation involving delayed response to insubordination to supervisors or other employee misconduct, and the fact that they were conceded to have played a role in the determination to discharge Nurse Non does not render her discharge unlawful.

In sum, I conclude that the discharge is not shown to have violated any right of Nurse Non protected under the Act.

#### B. License Revocation Inquiry

A different situation is presented by Respondent's action in sending to the New York State Education Department, Division of Professional Conduct, its personnel file on Nurse Non together with an inquiry as to whether grounds were present for revoking her license. That action occurred more than 2 months subsequent to her

discharge and after she had pursued claims for unemployment compensation and filed a charge with the Board; and Respondent concedes that its inquiry was prompted at least in part by her recourse to the state agencies and to the Board. In view of that admission and the long delay, I am persuaded that Respondent's primary motive was to retaliate against her for engaging in those protected activities, and that the letter and file would not have been sent absent those activities. Accordingly, I find that the inquiry placed an unlawful sanction on Nurse Non for exercising rights protected under Section 8(a)(1) and (4) of the Act. In addition, it could reasonably be expected to have a coercive and threatening effect on other employees who may wish to exercise those rights in the future.

#### C. Independent Violations of Section 8(a)(1)

While Nurse Non was pursuing her personal goals, other members of the nursing staff are shown to have perceived a need for collective action in dealing with the hospital administration on a broad range of subjects of interest to them as employees, and to have taken certain tentative steps in that direction. One of these was a meeting on April 9 in a private home where the possibility of unionization was discussed. During the course of that meeting, a nurse supervisor stated, "... you know what's going to happen then . . . . There'll go the hospital," and then abruptly left the meeting. Again, on December 18 and after a petition for a representation election had been filed, the new director of nursing told a nurse that "all the benefits I've been working for have stopped until this union thing is settled." The former statement constitutes a threat of closure and the latter a threat of loss of benefits. Both are patently coercive and violate Section 8(a)(1). See *Highland Foods, Inc. and Vickelda Industrial Corporation*, 255 NLRB 1118, 1119-20 (1981); and *Centre Engineering, Inc.*, 253 NLRB 419, 421 (1980).

On April 29 and again on June 5, the administrator of the hospital asked a nurse whether it was true that the nurses were engaging in union activities. Inquiries of that type are inherently coercive and constitute unlawful interrogation. See *PPG Industries, Inc., Lexington Plant, Fiber Glass Division*, 251 NLRB 1146, 1147 (1980). In addition, on June 5 he urged the nurses to defer seeking union representation until he had an opportunity to "make things right" in regard to any grievances they had. The clear implication of this solicitation was that he would correct grievous matters if the nurses would hold off their organizational campaign. This too is a patent violation of Section 8(a)(1) of the Act. See *Hubbard Regional Hospital*, 232 NLRB 858, 870 (1977).

Finally, the two rules set forth above which prohibit solicitation on "hospital time and premises" are unlawfully broad since they can reasonably be interpreted as prohibiting union solicitation at any time on hospital premises. Compare *St. John's Hospital and School of Nursing, Inc.*, 222 NLRB 1150 (1976), *enfd.* in pertinent part 557 F.2d 1368 (10th Cir. 1977); *Beth Israel Hospital v. N.L.R.B.*, 437 U.S. 483 (1978).

## CONCLUSIONS OF LAW

1. By requesting the New York State Education Department to inquire into the professional behavior of an employee, Nurse Nancy Non, because she filed a charge with the Board, Respondent engaged in an unfair labor practice in violation of Section 8(a)(4) of the Act.

2. By unlawfully interfering with, restraining, and coercing employees by threatening loss of benefits and closure of the hospital in the event they chose to be represented by a union, by interrogating employees concerning their union activities, by soliciting grievances of employees and promising employees benefits to discourage their union support, and by promulgating and maintaining an overly broad no-solicitation rule, Respondent engaged in unfair labor practices in violation of Section 8(a)(1) of the Act.

3. The aforesaid unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

4. Respondent did not violate Section 8(a)(3) and (1) of the Act by discharging Nurse Nancy Non.

5. The evidence fails to establish any other unfair labor practice.

## THE REMEDY

Having found that Respondent has engaged in certain unfair labor practices, I shall recommend that it be ordered to cease and desist therefrom and to take certain affirmative action designed to effectuate the policies of the Act. The latter shall include: (1) the posting of the notice appended hereto, (2) rescission and removal from its bulletin boards and regulations of the overly broad no-solicitation rule, and (3) transmittal to New York State Education Department, Division of Professional Conduct, of a written request to withdraw its prior request (dated June 20, 1980) for an inquiry into the professional conduct of Nurse Nancy Non accompanied by a copy of the appended notice.

ORDER<sup>20</sup>

The Respondent, Read Memorial Hospital, Hancock, New York, its officers, agents, successors, and assigns, shall:

<sup>20</sup> In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and

## 1. Cease and desist from:

(a) Penalizing or otherwise discriminating against employees because they file charges with the Board or engage in protected concerted activities.

(b) Threatening employees with loss of benefits or closure of the hospital because of activities on behalf of any labor organization.

(c) Interrogating employees concerning their interest in or activities on behalf of any labor organization.

(d) Soliciting grievances from employees to discourage their activity on behalf of any labor organization.

(e) Promulgating and maintaining an overly broad no-solicitation rule.

(f) In any like or related manner interfering with, restraining, or coercing employees in the exercise of rights guaranteed them by the Act.

## 2. Take the following affirmative action:

(a) Post at its hospital in Hancock, New York, copies of the attached notice marked "Appendix."<sup>21</sup> Copies of said notice, on forms provided by the Regional Director for Region 3, after being duly signed by Respondent's authorized representative, shall be posted by Respondent immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to ensure that said notices are not altered, defaced, or covered by any other material.

(b) Rescind and remove from its bulletin boards and regulations the overly broad no-solicitation rule.

(c) Send to the New York State Education Department, Division of Professional Conduct, a written request to withdraw its prior request (dated June 20, 1980) for an inquiry into the professional conduct of Nurse Nancy Non accompanied by a copy of the appended notice.

(d) Notify the Regional Director for Region 3, in writing, within 20 days from the date of this Order, what steps Respondent has taken to comply herewith.

become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

<sup>21</sup> In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."